

**AUCTIONEER BOARD
MADISON, WISCONSIN
MINUTES
DECEMBER 10, 2001**

PRESENT: Ron Bast (by telephone), Robert Brandau, Marie Kohlbeck, Richard Lust, Robert Massart, Mark Shain, and Marie Skic

EXCUSED: All members present

STAFF PRESENT: Cletus Hansen and Division of Enforcement auditors; Colleen Baird and Mike Berndt for a portion of the meeting.

GUESTS: Maxine O'Brien, Wisconsin Auctioneer Association
David Shroud, auctioneer
Scott Varney, auctioneer

CALL TO ORDER

The meeting was called to order at 9:22 a.m. by Richard Lust, Chair, upon confirmation that the public notice was timely given. A quorum of seven members was present.

AGENDA

MOTION: Marie Skic moved, seconded by Robert Brandau, to adopt the agenda with the addition of a Review of Pending Cases by Mike Berndt. Motion carried unanimously.

MINUTES (10/22/01)

MOTION: Marie Kohlbeck moved, seconded by Marie Skic, to approve the minutes, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Oscar Herrera

Oscar Herrera was not available for the meeting.

Cletus J. Hansen

- **Roster**

Robert Brandau provided a revised address.

- **Meeting Dates for 2002**

Marie Kohbeck said she may not be able to attend the February meeting.

To-Do List

Noted

- **Summary of Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules**

Richard Lust requested that the disciplinary action regarding Rainbow Auction & Realty Co. and Jon S. Schuster (Onalaska, WI) be submitted to the Auctioneer Screening Panel.

- **To-Pass Folder**

Noted

LEGISLATIVE UPDATE

Clete Hansen informed the Board that there was nothing new to report.

ADMINISTRATIVE RULES

Mandatory Continuing Education

The Board briefly discussed the latest draft of the administrative rule proposal.

Motion: Marie Kohlbeck moved, seconded by Robert Brandau, to schedule the hearing as soon as possible, but not before the last week of January or the first week of February, to authorize Richard Lust to conduct the hearing on the part of the Board and send the rule proposal to the Legislative Committees, if no substantive changes need to be considered. Motion carried unanimously.

Motion: Mark Shain moved, seconded by Robert Massart to recommend that the rule draft be amended by revising the last sentence of the definition of "Distance education" in s. RL 128.015, as follows: "Distance education" includes the delivery of educational programs and courses on CD-ROM, videotape, computer disk, ~~or~~ the internet or other similar electronic media. Motion carried unanimously.

REVIEW OF AUCTIONEER CONTRACT

The Board reviewed with Colleen Baird a letter sent to Ms. Baird by Attorney Daryl W. Laatsch, on November 11, 2001. The letter included a copy of a contract with a reserve clause and a contract without a reserve clause, to be used by Badger Auctioneers, Inc.

Motion: Robert Massart moved, seconded by Marie Kohlbeck, that the Board accepts the changes and considers the contracts to now be in compliance

with the Board's previous disciplinary order against Badger Auctioneers, Inc. Motion carried. (Richard Lust, the Case Advisor, abstained).

PRACTICE QUESTIONS

Bidding by Sellers and Auctioneers

The Board acknowledged the receipt of copies of rules of other states and briefly discussed this issue. Maxine O'Brien said that this is one of the most frequently complaints she receives at the office of the Wisconsin Auctioneers Association.

MOTION: Marie Skic moved, seconded by Robert Massart, to recommend to Secretary Oscar Herrera that he appoint an Auctioneer Rules Committee, consisting of Mark Shain (Board member), Robert Massart (Board member), William Dusso (Legal Counsel) and Scott Varney (auctioneer). Mark Shain is appointed as the Committee Chair. Motion carried unanimously.

MISCELLANEOUS INFORMATION/CORRESPONDENCE

None

PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT

None

NEW BUSINESS

None

PUBLIC COMMENTS

Previously provided by Maxine O'Brien

RECESS TO CLOSED SESSION

MOTION: Marie Skic moved, seconded by Marie Kohlbeck, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Department or the investigation of charges against such a person. Specifically, to revise open cases and to deliberate on a monitoring report. Motion carried unanimously by a roll call vote: Robert Brandau - yes; Marie Kohlbeck - yes; Marie Skic - yes; Ron Bast - yes; Mark Shain - yes; Robert Massart - yes; Richard Lust - yes.

Open Session recessed at 10:30 a.m.

The Board reviewed the status of open investigations with Mike Berndt of the Division of Enforcement.

ADJOURN CLOSED SESSION

MOTION: Marie Skic moved, seconded by Mark Shain, to adjourn the Closed Session and to reconvene in Open Session at 10:58 a.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MONITORING REPORT

Kenneth W. Sprague (Kenosha)

MOTION: Marie Kohlbeck moved, seconded by Mark Shain, that the Board does not accept the voluntary surrender proposed by Kenneth W. Sprague and that the Board acknowledges that the previous disciplinary order calls for a suspension of the registration of Mr. Sprague, if he fails to comply with the order. The Board also acknowledges that Mr. Sprague has not complied with the order. Motion carried. (Richard Lust, the Case Advisor, abstained.)

ADJOURNMENT

The meeting was adjourned at 11:07 a.m.